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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,799	01/09/2002	Frank Leymann	DE920000043US1 (183)	5078

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EXAMINER	
GOLD, AVI M	

ART UNIT	PAPER NUMBER
2457	

MAIL DATE	DELIVERY MODE
04/22/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/042,799	LEYMANN ET AL.	
	Examiner	Art Unit	
	AVI GOLD	2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 January 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *15-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *15-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This action is responsive to the appeal brief filed on January 5, 2010. Claims 15-18 are pending.

Response to Amendment

Claim Objections

Claim 15 is objected to because of the following informalities: The 3rd to last limitation claims "forwarding, by the second application" which appears to be missing 'server' after 'application'. Appropriate correction is required.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoakum et al., U.S. Patent No. 6,421,674, further in view of Applicant's Admitted Prior Art (AAPA).

As to claim 15, Yoakum teaches a method of operating a computer system, wherein the computer system comprises an application client, a first application server configured to process requests of the application client, a second application server configured to process requests of the application client, and a database accessible by the first and second application servers, the method comprising:

a first application server (col. 4, line 23, Yoakum discloses a first proxy server 208);

receiving, by the first application server, a request from the application client to the first application server (col. 4, lines 23-27, Yoakum discloses messages, that include lookup requests, received from the gateway at the proxy server);

forwarding, by the first application server, the request to the second application server (col. 4, lines 32-43, Yoakum discloses the request forwarded to second proxy server 210);

receiving, by the second application server, the request from the first application server (col. 4, lines 43-47, Yoakum discloses the second proxy server receiving the message and returning a response to the first proxy server);

generating, by the second application server, a response to the request (col. 4, lines 43-47);

forwarding, by the second application, the response to the first application server (col. 4, lines 43-47);

receiving, by the first application server, the response from the second application server (col. 4, lines 43-50, Yoakum discloses the first proxy server receiving the message from the second proxy server); and

forwarding, by the first application server, the response to the application client (col. 4, lines 49-51, Yoakum discloses the gateway receiving the response from the first proxy server).

Yoakum fails to teach the limitation further including detecting by the first application server that a database is not accessible and the first and second servers performing various actions while the database is not accessible.

However, AAPA teaches the use of, in prior art computer systems, an application server informing the application client about the loss of a connection to a database, which must be happen after the application server detects the loss of the connection; and processing a request of a client while the database is not able to be accessed by the first server (page 1, paragraph 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Yoakum in view of AAPA to detect, by the first application server, that a database is not accessible and the first and second servers performing various actions while the database is not accessible. One would be motivated to do so because it would be more efficient for a server to detect that a database is not accessible by it than to use a separate means for that function.

3. Claim 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoakum and AAPA, further in view of Holmberg, U.S. Patent No. 6,247,141.

As to claim 16, Yoakum and AAPA teach the method of claim 15.

Yoakum and AAPA do not explicitly teach wherein the response is received, from the second application server, to an input queue of the first application server.

However, Holmberg teaches a queue with the backup and primary servers (col. 6, lines 10-18, 29-40).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Yoakum and AAPA in view of Holmberg wherein the response is received, from the second application server, to an input queue of the first application server. One would be motivated to do so because a queue is an efficient way to organize received data to be processed.

Regarding claim 17, Holmberg teaches the method of claim 16, further comprising transferring the response from the input queue of the first application server to an output queue of the first application server (col. 6, lines 10-18, 29-40).

As to claims 18, Yoakum and AAPA teach the method of claim 15.

Yoakum and AAPA do not explicitly teach wherein the response is received, from the second application server, into an output queue of the first application server.

However, Holmberg teaches a queue with the backup and primary servers (col. 6, lines 10-18, 29-40).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Yoakum and AAPA in view of Holmberg wherein the response is received, from the second application server, into an output queue of the first application server. One would be motivated to do so because a queue is an efficient way to organize received data to be processed.

Response to Arguments

4. In view of the appeal brief filed on January 5, 2010, PROSECUTION IS HEREBY REOPENED. To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,711,606 to Leymann et al.

U.S. Pat. No. 6,625,141 to Glitho et al.

U.S. Pat. No. 6,148,307 to Burdick et al.

U.S. Pat. No. 5,978,577 to Rierden et al.

U.S. Pat. No. 6,801,927 to Smith et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AVI GOLD whose telephone number is (571)272-4002. The examiner can normally be reached on M-F 8:30 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. G./
Examiner, Art Unit 2457

/ARIO ETIENNE/
Supervisory Patent Examiner, Art Unit 2457